

United States

8

Circuit Court of Appeals

For the Ninth Circuit.

CHIN FONG,

Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration
for the Port of San Francisco,

Appellee.

Transcript of Record.

Upon Appeal from the Southern Division of the United States
District Court for the Northern District of
California, First Division.

FILED

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F. D. MONCKTON,
CLERK

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INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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Names of Attorneys.

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GEO. A. McGOWAN, Esq., San Francisco,
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For Respondent and Appellee:

JOHN W. PRESTON, Esq., U. S. Attorney,
and CASPAR A. ORNBAUN, Esq., Asst.
U. S. Attorney.

*In the District Court of the United States, in and
for Northern District of California, Southern
Division.*

16,205.

In the Matter of the Application of CHIN FONG,
on Habeas Corpus.

Praeceptum for Transcript on Appeal.

To the Clerk of said Court:

Sir: Please make up Transcript of Appeal in the
above-entitled case, to be composed of the following
papers, to wit:

1. Petition for Writ of Habeas Corpus (exclud-
ing exhibit) and amendment thereto.
2. Order to Show Cause.
3. Return of Respondent.
4. Judgment and Order Dismissing and Denying
Petition for Writ.
5. Exceptions reserved.
6. Stipulation and Order Approving Statement
of the Case and Agreed Statement of facts
with respect thereto.

7. Notice of Appeal.
8. Petition for Appeal.
9. Order Allowing Appeal and Releasing on Bond.
10. Citation, original and copy.
11. Orders Extending Time to Docket Case.
12. Stipulation and Order regarding Immigration Record.
13. Appearance Bond.
14. Clerk's Certificate.
15. Assignment of Errors.

GEO. A. MCGOWAN,
Attorney for Petitioner. [1*]

[Endorsed]: Due service and receipt of a copy of the within Praeceptum is hereby admitted this 29th day of August, 1917.

JOHN W. PRESTON,
U. S. Attorney, Northern District of California,
Attorney for Respondent.

Filed May 20, 1918. W. B. Maling, Clerk. By
C. W. Calbreath, Deputy Clerk. [2]

*In the District Court of the United States, in and
for the Northern District of the State of Cali-
fornia, Division No. 1.*

(No. 16,205.)

In the Matter of CHIN FONG (13,137/1/2 Ex S. S.
"PERSIA," Dec. 23, 1913), on Habeas Cor-
pus.

*Page-number appearing at foot of page of original certified Transcript of Record.

Petition for Writ of Habeas Corpus.

To Honorable Judge now Presiding in the Above-entitled Court:

Comes now Chin Guy Get, and files this, his petition for a writ of habeas corpus herein, upon behalf of Chin Fong, hereinafter referred to as the detained:

That the said detained is unlawfully imprisoned, detained, confined and restrained of his liberty, by Edward White, Commissioner of Immigration for the port of San Francisco, at the United States Immigration Station on Angel Island, in the county of Marin, State and Northern District of California, and within the Southern Division thereof;

That the said imprisonment, detention, confinement and restraint are illegal, and that the illegality thereof consists in this, to wit:

That it is claimed by the said Commissioner that the said detained is a Chinese person and an alien, and not subject or entitled to admission into the United States under the terms and provisions of the Acts of Congress of May 6th, 1882, July 5th, 1884, November 3d, 1893, and the Act of April 29th, 1902, as amended and re-enacted by Section 5 of the Deficiency Act of [3] April 7th, 1914, which said acts are commonly known and referred to as the Chinese Exclusion and Restriction Acts, and that he, the said Commissioner, intends to deport the said detained away from and out of the United States to the Republic of China;

That the said Commissioner claims that the said

detained arrived at the port of San Francisco on or about the 23d day of December, 1913, on the S. S. "Persia," and thereupon made application to re-enter the United States as a resident Chinese merchant lawfully domiciled therein, and that the application of the said detained to enter the United States as such merchant was denied by the said Commissioner of Immigration, and that an appeal was thereupon taken from the excluding decision of the said Commissioner of Immigration to the Secretary of the Department of Labor, and that the said Secretary thereafter dismissed the said appeal; that it is admitted by the said Commissioner of Immigration and the said Secretary that the said detained was admissible into the United States under the Act of Congress approved February 20th, 1907, as amended by Act of March 6th, 1910, commonly known as the General Immigration Laws thereof; that it is claimed by the said Commissioner that in all of the proceedings had herein the said detained was accorded a full and fair hearing, and that the action of the said Commissioner and the said Secretary was taken and made by them in the proper exercise of the discretion committed to them by the statutes in such cases made and provided, and in accordance with the regulations promulgated under the authority contained in said statutes.

But on the contrary your petitioner alleges upon his information and belief that the hearing and proceedings had herein, and the action of the said Commissioner, and the action of the said [4] Secretary, was and is in excess of the authority committed

to them by the said statutes and the said rules and regulations, and that the denial of the application of the said detained to re-enter the United States as a resident Chinese merchant and lawfully domiciled therein was and is an abuse of the authority committed to them by the said statutes in each of the particulars hereinafter set forth:

That the said detained was for more than a year prior to his departure from the United States a merchant and a member of the firm of Kwong Mow Lan & Company, which is and was a firm engaged in buying, selling and dealing in merchandise, at a fixed place of business at No. 8 Pell Street, in the Borough of Manhattan, city of New York, State of New York, and that he had been so engaged for more than one year prior to his departure from the United States for China upon said temporary visit; and that the said detained prior to his departure gave the names of two credible witnesses other than Chinese, to wit: Israel P. Brand, of No. 207 Center Street, and John Delmonte, of No. 7 Burling Slip, both of the City of New York; and that in the furtherance of his intention to so depart from the United States the said detained departed through the port of San Francisco on the steamer "Nile" on or about the 23d day of November, 1912, and at the conclusion of said temporary visit to China the said detained returned to the United States through the said port of San Francisco, and thereupon presented and made application to the said Commissioner to re-enter the United States as such returning Chinese merchant, and the said Commissioner received said

application and examined the same, causing the said store of Kwong Mow Lan & Co. to be examined, and found that the same was a genuine mercantile establishment, and such as is contemplated by the Chinese Exclusion and Restriction Acts, and the two said credible witnesses other than Chinese, [5] Israel P. Brand and John Delmonte, were examined under oath and testified in substance and effect that the said detained had been such a Chinese merchant for more than one year prior to the date of his said departure for China, and that the examining Immigration Inspector reported that the said two white witnesses were credible witnesses, and further reported that the said detained had been such a merchant for more than one year prior to the date of his departure for China, and that during said time he had engaged in the performance of no manual labor of any kind or description whatsoever, save and excepting only such duties as were incumbent upon him in the conduct of his business as such merchant, and the report of the Immigration Inspector in charge of the Chinese Division of the Immigration Service in the city of New York was in substance and effect that the mercantile status of the said detained for the year prior to his departure aforesaid for China had been established in full and complete compliance with the provisions of Section 2 of the Act of Congress of November 3d, 1893, entitled, "An Act to amend an Act entitled 'An Act to provide for the coming of Chinese persons into the United States,' approved May 5th, 1892," which said section prescribes the evidence necessary to be pre-

sented by a Chinese person applying to re-enter the United States after a temporary absence therefrom as a Chinese merchant claiming a commercial domicile therein.

Your petitioner further alleges that notwithstanding the presentation of said evidence showing the mercantile standing of the said detained as hereinbefore set forth, the said Commissioner of Immigration denied the application of the said detained to re-enter the United States, the said denial not being based upon any deficiency in the evidence presented to establish the mercantile [6] status of the said detained for a year prior to his departure from this country for China, but on the contrary the denial of the said Commissioner was based upon the conclusion and opinion of the said Commissioner of Immigration that the said detained had not established to the satisfaction of the said Commissioner of Immigration that his original entry into the United States had been accomplished in a lawful manner, and that the said detained was therefore illegally within the United States under and by virtue of the provisions of Section 12 of the Act of Congress of May 6th, 1882, as amended and added to by the Act of Congress of July 5th, 1884, which said last mentioned act was entitled, "An Act to amend an Act entitled 'An Act to execute certain treaty stipulations relating to Chinese,' approved May 6th, 1882," and under and by virtue of the provisions of Section 13 of the Act of Congress of September 13th, 1888, entitled, "An Act to Prohibit the Coming of Chinese Laborers to the United States." And it is further

claimed by the said Commissioner of Immigration that the legality of the residence of the said detained in the United States prior to his said departure upon said temporary visit to China had not been determined by any Justice, Judge, or Commissioner of a Court of the United States; and the said Commissioner therefore held and contended that upon the application of the said detained to re-enter the United States he, the said Commissioner of Immigration had the right to determine the question of the mercantile status of the said detained for the year prior to his departure for China as in said section 2 provided, and in addition thereto had the right to determine the legality of the original entry of the said detained into the United States and also to determine the legality of the residence of the said detained in the United States prior to the said period of one year mentioned in said [7] Section 2 of said Act of November 3d, 1893, and that notwithstanding the compliance with the provisions of said Section 2 by the said detained, the said Commissioner of Immigration denied the application of the said detained to re-enter the United States as a returning merchant having a commercial domicile therein, basing his said denial, however, upon the conclusion of the said Commissioner that the original entry of the said detained into the United States in 1897 was illegal, for the reason that the said detained did not satisfactorily account to the said Commissioner of Immigration for the present whereabouts of the papers upon which the detained claimed to have been originally admitted into the

United States. That from the excluding decision of the said Commissioner of Immigration an appeal was taken to the Secretary of the Department of Labor and that the said Secretary of Labor affirmed the excluding decision of the said Commissioner of Immigration for the port of San Francisco.

Your petitioner therefore alleges, upon his information and belief, that the said action of the said Commissioner of Immigration and the said Secretary of Labor was in excess of their jurisdiction and the powers conferred upon them by statute, in this, that the said detained, having presented the evidence required by the said Section 2 hereinbefore mentioned, it was the duty of the said Commissioner of Immigration and the duty of the said Secretary of Labor to have permitted the said detained to re-enter the United States as such returning Chinese merchant, and that their excluding decision was in violation of and in excess of the statutory authority vested in them, in this, that the said Section 2 of said Act of November 3d, 1893, provides: "That the term 'merchant' as employed herein and the acts of which this is amendatory shall have the following meaning and none other." And that [8] the said detained having complied with the said act and having submitted the evidence required by the said Section 2 and from the witnesses therein required, that the said Commissioner of Immigration and the said Secretary of Labor should have ordered and directed the re-admission of the said detained into the United States, and that no other action would have been in excess of and in violation of their statutory author-

ity. That for said reason their said excluding decisions are null and void and without effect.

Your petitioner further alleges upon his information and belief that the said Chin Fong entered the United States in a lawful manner during the year 1897 upon a merchant's paper issued under the provisions of Section 6 of the Act of Congress of May 6th, 1882, aforesaid, as amended and added to by the Act of Congress of July 5th, 1884, and that to facilitate in establishing the issuance of the said certificate and as evidence that the said detained would become a merchant in the United States after his arrival thereat, he had prepared and forwarded to him in China papers from the firm of Young Wah Hong Company, of the city of New York, State of New York, showing that the said detained would become a merchant and a member of the said firm upon his entry into the United States.

And your petitioner further alleges upon his information and belief that there was no fraud practiced in his said entry into the United States or in his subsequent residence therein.

And your petitioner further alleges that the said detained has never had a hearing before competent and legal authority invested with power to determine the matter as to whether his prior residence in the United States was legal or otherwise, or whether the method of his original entry into the United States was legal [9] or otherwise, and in this connection your petitioner further alleges upon his information and belief that the action of the said Commissioner of Immigration and of the said Secre-

tary of Labor in determining and deciding that the said detained had originally entered the United States in an illegal manner was without any supporting evidence, and was and is an abuse of discretion, and was without their authority and jurisdiction, and was in violation of Section 12 of the Act of Congress of May 6th, 1882, aforesaid, and in violation of the terms of Section 13 of the said Act of Congress of September 13th, 1888.

That attached hereto and made a part hereof is a complete copy of the Immigration Record of the application of the said detained to depart from and return to the United States as a Chinese merchant, together with the evidence given in support of his application to re-enter the United States, and that the same is filed separately herewith as Exhibit "A."

That it is the intention of the said Commissioner of Immigration to deport the said detained out of the United States on the steamer "Columbia," sailing from the Port of San Francisco on or about the 2d day of June, 1917, at the hour of one o'clock P. M. of said day, and unless this Court intervenes on behalf of the said detained, the said detained will on said date be deported out of and from the United States to the Republic of China.

WHEREFORE, your petitioner prays that a Writ of Habeas Corpus may be granted herein, directed to the said Edward White, Commissioner of Immigration as aforesaid, commanding him to have the body of the said detained before your Honor at a time and place to be therein specified, to do and receive what shall then and there be commanded by

this Honorable Court concerning him, together with the time and cause of his detention, and said writ, [10] and that he may be restored to his liberty.

Dated San Francisco, California, May 24th, 1917.

CHIN GUY GET,
Petitioner.

GEO. A. McGOWAN,
Attorney for Petitioner.

United States of America,
State and Northern District of California,—ss.

Chin Guy Get, being first duly sworn, deposes and says: That he is the petitioner named in the foregoing petition; that the same has been read and explained to him, and he knows the contents thereof; that the same is true of his own knowledge, except as to those matters which are therein stated on his information and belief, and as to those matters he believes it to be true.

CHIN GUY GET.

Subscribed and sworn to before me this 24th day of May, 1917.

[Seal] HARRY L. HORN,
Notary Public in and for the City and County of San Francisco, State of California.

Due service and receipt of a copy of the within petition and order is hereby admitted this 29 day of May, 1917.

JNO. W. PRESTON,
U. S. Attorney, Northern District of California,
Attorney for Respondent.
CHAS. D. MAYER,
For EDWARD WHITE, Commissioner of Immigration.

[Endorsed]: Filed May 25, 1917. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [11]

In the District Court of the United States, in and for the Northern District of the State of California, Division No. 1.

No. 16,205.

In the Matter of CHIN FONG (13,137½ Ex. S. S. "PERSIA," Dec. 23, 1913), on Habeas Corpus.

Amendment to Petition for Writ.

Comes now the petitioner in the above-entitled action, and files and presents this, his amendment to the petition for a writ of habeas corpus on file herein, i. e., by adding thereto on page 8 thereof, after the paragraph which is concluded on line 16 of said page, the following paragraph:

Your petitioner alleges on his information and belief, that the said detained has been, for upwards of two and one-half (2½) years last past, and prior to the application for this writ of habeas corpus, a Chinese merchant, lawfully domiciled within the United States of America, and a member of the said firm of Quong Mow Lan & Company, which is and was a firm engaged in buying and selling and dealing in merchandise, at a fixed place of business, to wit: at No. 8 Pell Street, in the Borough of Manhattan, City of New York, State of New York, and that during said time he has engaged in the

performance of no manual labor of any kind or description whatsoever, except what was incumbent upon him in his conduct as such merchant, and that the detained has been such a merchant, as aforesaid, during his residence within the United States, upon bond, until his surrender into custody, just prior to the presentation of the petition for a writ of habeas corpus herein.

WHEREFORE, your petitioner prays judgment, as set forth in the original petition on file herein, of which the foregoing is an amendment.

Dated San Francisco, California, May 28th, 1917.

CHIN GUY GET,

Petitioner. [12]

United States of America,

State and Northern District of California,—ss.

Chin Guy Get, being first duly sworn, deposes and says:

That he is the petitioner in the foregoing amendment to petition; that the same has been read and explained to him, and he knows the contents thereof; that the same is true of his own knowledge, except as to those matters which are therein stated on his information and belief, and as to those matters he believes it to be true.

CHIN GUY GET.

Subscribed and sworn to before me this 28th day of May, 1917.

[Seal]

HARRY L. HORN,

Notary Public, in and for the City and County of San Francisco, State of California.

[Endorsed]: Due service and receipt of a copy of the within amendment to petition is hereby admitted this 29 day of May, 1917.

JNO. W. PRESTON,

U. S. Attorney, Northern District of California,

Attorney for Respondent.

CHAS. D. MAYER,

For EDWARD WHITE, Commissioner of Immigration.

Filed May 28, 1917. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [13]

In the District Court of the United States, in and for Northern District of the State of California, Division No. 1.

No. 16,205.

In the Matter of CHIN FONG (13,137½ Ex. S. S. "PERSIA," Dec. 23, 1913), on Habeas Corpus.

Order to Show Cause.

Good cause appearing therefor, and upon reading the verified petition on file herein, it is hereby ordered that Edward White, Commissioner of Immigration for the port and district of San Francisco, appear before this court on the 2 day of June, 1917, at the hour of 10 o'clock A. M. of said day, to show cause, if any he has, why a writ of habeas corpus should not be issued as herein prayed for, and that a copy of this order be served upon the said Commissioner.

AND IT IS FURTHER ORDERED that the said Edward White, Commissioner of Immigration as aforesaid, or whoever, acting under the orders of said Commissioner, or the Secretary of Labor, shall have the custody of the said Chin Fong, are hereby ordered and directed to retain the said Chin Fong, within the custody of the said Commissioner of Immigration, and within the jurisdiction of this court until its further order herein.

Dated San Francisco, California, May 28, 1917.

M. T. DOOLING,
United States District Judge.

[Endorsed]: Filed May 28, 1917. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [14]

In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 16,205.

In the Matter of CHIN FONG, on Habeas Corpus.

Return to Order to Show Cause.

Now comes Edward White, Commissioner of Immigration at the port of San Francisco, by Charles D. Mayer, Immigrant Inspector, and in return to the order to show cause, issued by the said court on the petition of Chin Guy Get for writ of habeas corpus, and to said petition admits, denies and alleges as follows:

Denies that the said detained is unlawfully imprisoned, detained, confined and restrained, or un-

lawfully imprisoned or detained or confined or restrained of his liberty by Edward White, Commissioner of Immigration at the Port of San Francisco, or otherwise, or at all.

As to the following allegation on page 2 of said petition, viz., "That it is admitted by the said Commissioner of Immigration and the said Secretary that the said detained was admissible into the United States under the Act of Congress approved February 20th, 1907, as amended by the Act of March 6th, 1910, commonly known as the General Immigration laws thereof," respondent has no information or belief concerning the said allegation sufficient to enable him to answer the same, and basing his answer upon said lack of information, denies the same. And in this connection respondent alleges that the admissibility of the said detained has never been passed upon by a Board of Special Inquiry as provided for by the said Immigration [15] Laws, and that the said detained is still subject to an investigation by said Board.

Denies that the hearing and proceedings or hearing or proceedings had herein or the action of the said Commissioner or the action of the said Secretary, was and is or was or is in excess of the authority committed to them by the statutes, rules and regulations.

Further denies that the denial of the application of the said detained to re-enter the United States as a resident Chinese merchant and lawfully domiciled therein was and is, or was or is, an abuse of the authority committed to them by the said statutes in

each or any of the particulars set forth in said petition.

Denies that the reports of the Immigration Inspector in charge of the Chinese Division of the Immigration Service in the City of New York was in substance and effect, or in substance or effect that the mercantile status of the said detained for the year prior to his departure aforesaid for China had been established in full and complete compliance with the provisions of Section 2 of the Act of Congress of November 3d, 1893, or otherwise, or at all.

Denies that the said Commissioner of Immigration denied the application of the said detained to re-enter the United States for the reason that the said detained did not satisfactorily account to the said Commissioner of Immigration for the present whereabouts of the papers upon which the detained claimed to have originally been admitted into the United States. And in this connection respondent alleges that the said denial was based not only upon the failure of detained to produce said papers, but also upon the failure of the detained otherwise to satisfactorily show that his entry into the United States was lawful.

And as a further and separate answer in this connection, [16] respondent alleges that after a full and fair hearing was accorded the detained upon his application to re-enter the United States, the Commissioner of Immigration found as follows:

13,137½.

In the Matter of CHIN FONG, SS. "PERSIA,"
December 23, 1913.

Application to Land as a Returning Merchant
(viséed), New York.

FINDING AND DECREE.

The applicant applied for preinvestigation of his alleged status as a merchant (Form 431), in December, 1911, but his application was denied by the Seattle office, and an appeal from that decision dismissed by the Bureau for the reason that it was satisfactorily shown at that time that the applicant had fraudulently secured his original admission to the United States, it having been claimed by him that he entered this country at or near Niagara Falls, New York, in 1897, on "merchant's papers" sent to him in China by the Young Wah Hong Company at New York. It was first claimed by the applicant, in the present case, that he was admitted at Niagara Falls in 1906, but when confronted with his previous testimony he denied the last-mentioned statement and reiterated the year first-mentioned as the date of his original entry, and stated that he was then admitted as a section six Canton merchant on papers secured by him in that city.

Niagara Falls was not a port of entry for Chinese in 1906, and the applicant has not satisfactorily accounted for the present whereabouts of the papers on which he claims to have been admitted, so that it must be concluded that his domicile in this country was unlawful; and as the Bureau has sustained the

action of the Seattle office in refusing his application for Form 431, the applicant is denied admission and advised of his right of appeal.

Dated this 6th day of February, 1914.

(Signed) SAMUEL W. BACKUS,
Commissioner.

WHW/ASH.

And upon due consideration of the appeal to the Secretary of Labor from the finding of the Commissioner of Immigration, the Acting Secretary of Labor found:

No. 53,725/44.

Washington, March 6, 1914.

In Re Case of CHIN FONG.

I am satisfied that the action recommended by the Bureau is the correct one in this case.

The original entry of this man was obtained by fraud. He cannot predicate any right whatever upon the basis of fraud. The fact that he has been permitted to [17] remain in this country constitutes no waiver of the right to deport him, and the fact that the government has not heretofore affirmatively exercised the authority to deport him, while it amounts to tentative permission to remain here, does not preclude or estop the government from exercising its authority to deport or deny admission at any time. A different question would be presented were the facts such that it did not appear that the alien's original entry was fraudulent. No business he might engage in nor length of residence here can cure the fraud perpetrated by him in gaining admission in the first instance.

This case appears to be quite fairly within the Mack Fock decision which, in my opinion, is correct.

The recommendation that admission be denied is approved.

J. B. DINSMORE,
Acting Secretary.

JBD/G.

Denies that the action of the said Commissioner of Immigration and the said Secretary of Labor, or the Commissioner of Immigration or the Secretary of Labor was in excess of their jurisdiction and the powers conferred upon them by statute.

Denies that the excluding decision of the said Commissioner of Immigration was in violation of, or in excess of the statutory authority vested in him.

Denies that the said Commissioner of Immigration and the said Secretary of Labor, or the said Commissioner of Immigration or the said Secretary of Labor should have ordered and directed, or ordered or directed the readmission of the detained into the United States, and further denies that the said excluding decision or decisions are null and void, or null or void, and without effect.

Denies that Chin Fong entered the United States in a lawful manner during the year 1897 or at any other time upon a merchant's paper or otherwise.

Denies that there was no fraud practiced in the entry of the said detained into the United States or in his subsequent residence therein. [18]

Denies that said detained has never had a hearing before a competent and legal or competent or legal authority invested with the power to determine the

matter as to whether his prior residence in the United States was legal or otherwise, or whether the method of his original entry into the United States was legal or otherwise.

Denies that the action of the said Commissioner of Immigration and the Secretary of Labor, or the said Commissioner of Immigration or the said Secretary of Labor in determining and deciding or determining or deciding that the said detained had originally entered the United States in an illegal manner was without any supporting evidence.

Further denies that said action was and is, or was or is, an abuse of discretion and was without their authority and jurisdiction or their authority or jurisdiction, and further denies that said action was in violation of section 12 of the Act of Congress of May 6th, 1882, or of any other act or in any way contrary to law.

As to the amendment to the petition on file herein, respondent in answering the same, denies that the said detained has been for upwards of two and one-half years last past and prior to the application for a writ of habeas corpus or otherwise or at all, a Chinese merchant lawfully domiciled within the United States of America, and a member of the firm of Kwong Mow Lan & Company or of any other firm or company domiciled or doing business in the United States of America.

As a further, separate and distinct answer and defense to the petition on file herein, respondent alleges that on March 9th, 1914, a petition for writ of habeas corpus was filed on behalf of said detained

in the above-entitled court; that a [19] demurrer was interposed to said petition, which said demurrer was sustained. That shortly thereafter, and on or about the 4th day of June, 1914, said detained filed an order allowing an appeal from the order of said Court sustaining said demurrer, to the Supreme Court of the United States, and a mandate was issued from the Supreme Court of the United States and spread upon the minutes of the above-entitled court on June 7th, 1916, dismissing said appeal, and the above-entitled Court ordered said applicant surrendered to the officers for deportation on or about the 1st day of July, 1916.

That although frequent requests were made on the part of the Government to have said detained surrendered, it was not until on or about May 24th, 1917, that said detained was surrendered to the Government officials.

That the petition for writ of habeas corpus now on file herein, covers no additional facts and raises no questions of fact or points of law other than those raised in the original petition for writ of habeas corpus which have already been determined by said Court, other than those already referred to in this answer.

WHEREFORE, respondent prays that said petition for a writ of habeas corpus be denied, and the order to show cause be discharged and that said alien be remanded to the custody of the respondent for deportation, as provided for in said warrant of deportation heretofore issued by the Secretary of Labor of the United States and for such other and

further relief as to this Court seems just and equitable.

JNO W. PRESTON,
 United States Attorney,
 CASPER A. ORNBAUN,
 Assistant U. S. Attorney,
 Attorneys for Respondent. [20]

United States of America,
 Northern District of California,
 City and County of San Francisco,—ss.

Charles D. Mayer being first duly sworn, deposes and says: That he is a Chinese and Immigrant Inspector connected with the Immigration Service for the port of San Francisco, and has been specially directed to appear for and represent the respondent, Edward White, Commissioner of Immigration, in the within entitled matter; that he is familiar with all the facts set forth in the within return to petition for writ of habeas corpus and knows the contents thereof; that it is impossible for the said Edward White to appear in person or to give his attention to said matter; that of affiant's own knowledge the matters set forth in the return to the petition for writ of habeas corpus are true, excepting those matters which are stated on information and belief, and that as to those matters he believes it to be true.

CHARLES D. MAYER.

Subscribed and sworn to before me this 7th day of June, 1917.

[Seal] T. L. BALDWIN,
 Deputy Clerk, U. S. District Court Northern District of California.

[Endorsed]: Presented in open court and filed June 7th, 1917. W. B. Maling, Clerk. By Lyle S. Morris, Deputy. [21]

At a stated term of the District Court of the United States, for the Northern District of California, held at the courtroom thereof, in the city and county of San Francisco, on Thursday, the 7th day of June, in the year of our Lord one thousand nine hundred and seventeen. Present: The Honorable M. T. DOOLING, Judge.

No. 16,205.

In the Matter of CHIN FONG on Habeas Corpus.
(Order Denying Petition for Writ of Habeas Corpus.)

This matter came on regularly this day for hearing of the order to show cause as to the issuance of a writ of habeas corpus herein. C. A. Ornbaun, Esq., Assistant United States, was present for and on behalf of Respondent and filed a return to said petition. Geo. A. McGowan, Esq., was present as attorney for and on behalf of petitioner and detained. On his motion, the Court ordered that petitioner be and is hereby allowed to hereafter file a traverse to said return *nunc pro tunc* as of to-day, June 7th, 1917. Said matter was thereupon argued by said attorneys and submitted. After due consideration had thereon, further ordered that said Petition for a writ of habeas corpus be, and the same is hereby denied and that the order to show cause be discharged accordingly. [22]

In the District Court of the United States, in and for the Northern District of the State of California, Division No. 1.

16,205.

In the Matter of CHIN FONG (13,137/1½, Ex. SS. "PERSIA," December 23, 1913), on Habeas Corpus.

Exceptions on Behalf of Petitioner.

Now comes Chin Fong, the petitioner and the detained in the above-entitled proceeding and does hereby except to the decision and order of the above-entitled court:

FIRST.

In holding and deciding that the Commissioner of Immigration and the Secretary of Labor had jurisdiction in a proceeding of a Chinese alien seeking readmission into the United States as a Chinese merchant having a lawful domicile therein, to consider and determine in said admission proceeding whether the said Chinese alien had originally entered the United States in a legal manner, approximately fifteen years prior to his departure from the United States, on said temporary visit to China, and upon their deciding that said original entry was fraudulent to thus deprive and prevent the alien from having that fact investigated and determined by a Justice, Judge or Commissioner of a Court of the United States.

SECOND.

In holding and deciding that the Commissioner of

Immigration and the Secretary of Labor could deny the petitioner, a Chinese alien, re-entry into the United States, after a temporary visit [23] to China, he having presented the testimony of two credible witnesses other than Chinese that he was engaged in business as a Chinese merchant, which business was conducted in his own name, and wherein he was engaged in buying, selling and dealing in merchandise at a fixed place of business for more than one year prior to his departure for China, and that during said period of one year, he had engaged in the performance of no manual labor of any kind or description, save and except only such duties as were incumbent upon him in his conduct as such merchant, and that the said mercantile establishment had no prohibitive features, and was a *bona fide* mercantile establishment, and that his interest therein still continues.

THIRD.

In holding and deciding that an alien Chinese person, while at liberty under bond in a court proceeding to determine the legality of his claim of readmission into the United States, cannot be heard in a subsequent *habeas corpus* proceeding to assert a mercantile status pursued and continued during his release on bond, in defense of the Government's prior refusal to permit him to re-enter the United States.

FOURTH.

In holding and deciding that the detained was not entitled to a hearing before this Court in this proceeding, upon the question whether or not his origi-

nal entry into the United States about fifteen years prior thereto, was legal or not.

FIFTH.

In dismissing the order to show cause, and denying the petition for a writ of habeas corpus herein.

Dated June 7th, 1917.

GEO. A. MCGOWAN,

Attorney for Petitioner. [24]

The above and foregoing exceptions are hereby allowed.

Dated June 8th, 1917.

M. T. DOOLING,

United States District Judge.

Due service and receipt of a copy of the within exceptions and order allowing same is hereby admitted this 8th day of June, 1917.

JNO. W. PRESTON,

U. S. Attorney, Northern District of California,
Attorney for Respondent.

[Endorsed]: Filed Jun. 8, 1917. W. B. Maling,
Clerk. By Lyle S. Morris, Deputy Clerk. [25]

*In the District Court of the United States, in and
for the Northern District of California, South-
ern Division, No. 1.*

16,205.

In the Matter of CHIN FONG (13,137/1/2, Ex. SS.
"PERSIA," December 23, 1913), on Habeas
Corpus.

**Stipulation and Order Approving Statement of the
Case and Agreed Statement of Facts With
Respect Thereto.**

It is hereby stipulated and agreed by and between the counsel for the respective parties hereto that on the 7th day of June, 1917, the above-entitled matter came on regularly to be heard before this Court sitting without a jury, George A. McGowan, representing the petitioner, and Caspar Ornbaum, Assistant United States Attorney in and for the Northern District of California representing Edward White, the Commissioner of Immigration of the port and district of San Francisco, and that the following is an agreed statement of facts or statement of the case in the above-entitled matter, that is to say:

This matter herein being a hearing upon the return to an order to show cause why a writ of habeas corpus should not issue in pursuance to the prayer contained in the petition for a writ of habeas corpus filed herein, the Assistant United States Attorney presented and filed the return to the order to show cause of the said Edward White, Commissioner of Immigration, as aforesaid. A hearing was then had upon the issues joined wherein judgment was asked for upon the record upon behalf of the petitioner, and the petitioner further offered to prove certain facts through witnesses to the Court, which offer was denied, and after argument by counsel the Court took [26] the matter under advisement, and thereupon, to wit: on the seventh day of June, 1917, rendered its decision dismissing the order to

show cause, and denying the application for a writ of habeas corpus as prayed for in the said petition.

That during the proceedings in said matter and during the hearing thereof certain motions and offers were made by the petitioner and certain rulings were made by the Court, all of which will more fully appear from the record of the proceedings had in said matter, which beginning immediately upon the filing of the return in open court and containing all of the proceedings in evidence given and introduced in said matter is as follows:

Mr. McGOWAN.—It is stipulated by and between counsel for the petitioner and the respondent, that the immigration record consisting of Exhibit “A” attached to the petition on file herein as supplemented by the proceedings before the Department of Labor at Washington as set forth in the return herein constitutes and is the record of the proceedings upon behalf of the detained Chin Fong to re-enter the United States as the same was had and had theretofore taken place before the Immigration authorities of the United States of America, and by consent of both parties the said record and proceedings were introduced in evidence.

Mr. ORNBAUN.—That is the understanding.

Mr. McGOWAN.—Upon behalf of the petitioner we now desire to ask for the judgment of this court discharging the petitioner from custody upon the pleadings and the record upon the following grounds:

First. That the Commissioner of Immigration and the Secretary of Labor are without jurisdiction

in a proceeding of a Chinese alien seeking readmission into the United States as a Chinese merchant having a lawful domicile therein to consider and determine in said admission proceedings whether said Chinese alien had [27] originally entered the United States in a legal manner, approximately fifteen years prior to his departure from the United States on said temporary visit to China, and upon their deciding that said original entry was fraudulent, to thus deprive and prevent the alien from having that fact investigated and determined by or before a Justice, Judge or Commissioner of a Court of the United States, all as shown by the immigration record herein.

Mr. ORNBAUN.—The respondent resists the motion.

The COURT.—The motion so far as it is based upon the ground indicated will be denied.

Mr. McGOWAN.—The petitioner reserves an exception.

(EXCEPTION No. 1.)

Mr. McGOWAN.—We ask for judgment secondly upon the ground that the Commissioner of Immigration and the Secretary of Labor cannot deny the petitioner, a Chinese alien, re-entry into the United States, after a temporary visit to China, he having presented the testimony of two credible witnesses other than Chinese, that he was engaged in business as a Chinese merchant, which business was conducted in his own name, and wherein he was engaged in buying, selling and dealing in merchandise at a fixed place of business for more than one year

prior to his departure for China, and that during said period of one year, he had engaged in the performance of no manual labor of any kind or description, save and except only such duties as were incumbent upon him in his conduct as such merchant, and that the said mercantile establishment had no prohibitive features, and was a *bona fide* mercantile establishment, and that the interest of the detained therein still continues, all as shown by the immigration record herein.

Mr. ORNBAUN.—The respondent resists the motion.

The COURT.—The motion so far as it is based upon the ground indicated is denied. [28]

Mr. McGOWAN.—The petitioner reserves an exception.

(EXCEPTION No. 2.)

Mr. McGOWAN.—It appears from the return of the Respondent that the petitioner in this matter was at liberty upon bail, after applying to re-enter the United States, from about the 4th day of June, 1914, up to shortly before he was surrendered into custody prior to the commencement of this present proceeding and supplementing the facts now of record and in evidence before the Court, we desire to present suitable and competent testimony for the purpose of showing that during said time this detained was engaged in business in New York as a merchant following an exempt status as a Chinese merchant in the same manner and in the same way as he had been doing prior to his departure on a temporary visit to China.

Mr. ORNBAUN.—The respondent objects to the reception of evidence of that kind claiming it is entirely immaterial, incompetent and irrelevant.

The COURT.—The objection will be sustained.

Mr. McGOWAN.—The petitioner reserves an exception.

Mr. McGOWAN.—We now desire to ask upon behalf of this petitioner that this Court accord us a hearing in this present proceeding upon the question whether or not the detained's original entry into the United States about fifteen years ago was legal or not. We now have competent evidence to present to show that this said entry was in a legal manner.

Mr. ORNBAUN.—The respondent submits that the Court is without jurisdiction to receive evidence upon that point.

The COURT.—The Court denies such a hearing as requested holding that that question was and is for the immigration officers to determine.

Mr. McGOWAN.—The petitioner reserves an exception.

(EXCEPTION No. 4.) [29]

Mr. McGOWAN.—There is nothing further to present.

Mr. ORNBAUN.—The Government rests.

The COURT.—The order to show cause will be dismissed and the petition for a writ of habeas corpus denied.

Mr. McGOWAN.—The petitioner reserves an exception.

(EXCEPTION No. 5.)

The undersigned attorneys for the respective parties hereto do hereby stipulate and agree that the foregoing is and does constitute the agreed statement of facts or statement of the case in the above-entitled matter, and we hereby agree to the statement and the allowance and approval of same by the Judge of the above-entitled court.

Dated San Francisco, California, January 24th, 1918.

GEO. A. MCGOWAN,
Attorney for Petitioner and Appellant.
JNO. W. PRESTON,
Attorney for Respondent and Appellee.

Upon reading and filing the foregoing stipulation, it is hereby ordered that the statement of the case or agreed statement of facts as recited in the foregoing stipulation is hereby settled, allowed and approved as therein set forth.

Dated San Francisco, California, January 24, 1918.

M. T. DOOLING,
United States District Judge.

[Endorsed]: Filed Apr. 8, 1918. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [30]

In the District Court of the United States, in and for the Northern District of the State of California, Southern Division, Division No. 1.

In the Matter of CHIN FONG (13,137½, Ex. SS. "PERSIA," December 23, 1913), on Habeas Corpus.

Notice of Appeal.

To the Clerk of the Above-entitled Court and to the Honorable John W. Preston, United States Attorney for the Northern District of California.

You and each of you will please take notice that Chin Fong, the petitioner and the detained, above named, does hereby appeal to the Circuit Court of Appeals of the United States for the Ninth Circuit thereof, from the *other* made and entered herein on the 7th day of June, 1917, denying the petition for a writ of habeas corpus filed herein.

Dated at San Francisco, California, June 7th, 1917.

GEO. A. MCGOWAN,

Attorney for Petitioner and Detained and Appellant. [31]

In the District Court of the United States, in and for the Northern District of the State of California, Southern Division, Division No. 1.

In the Matter of CHIN FONG (13,137½, Ex. SS. "PERSIA," December 23, 1913), on Habeas Corpus.

Petition for Appeal.

Now comes Chin Fong, the petitioner, the detained and the appellant herein, and says:

That on the 7th day of June, 1917, the above-entitled court made and entered its order denying the petition for a writ of habeas corpus, as prayed for, on file herein, in which said order in the above-entitled cause certain errors were made to the prejudice of the appellant herein, all of which will more fully appear from the assignment of errors filed herewith.

WHEREFORE, this appellant prays that an appeal may be granted in his behalf to the Circuit Court of Appeals of the United States, for the Ninth Circuit thereof, for the correction of the errors so complained of, and further, that a transcript of the record, proceedings and papers in the above-entitled cause, as shown by the praecipe, duly authenticated, may be sent and transmitted to the said United States Circuit Court of Appeals, for the Ninth Circuit thereof; and further, that the said detained be admitted to bail during the pendency of the appeal herein, upon giving a bond before a Commissioner of this Court, in the sum of Fifteen Hundred Dollars (\$1500) conditioned that he will return and surrender himself [32] in execution of whatever judgment may be finally entered herein.

Dated at San Francisco, California, June 7th, 1917.

GEO. A. MCGOWAN,
Attorney for Petitioner, Detained and Appellant.

In the District Court of the United States, in and for the Northern District of the State of California, Southern Division, First Division.

In the Matter of CHIN FONG, (13,137/1/2 Ex. S. S. "PERSIA," December 23, 1913), on Habeas Corpus.

Assignment of Errors.

Comes now, Chin Fong, by his attorney, George A. McGowan, Esquire, in connection with his petition, for an appeal herein, assign the following errors, which he avers occurred upon the trial or hearing of the above-entitled cause, and upon which he will rely, upon appeal to the Circuit Court of Appeals, for the Ninth Circuit, to wit:

FIRST. That the Court erred in denying the petition for a writ of habeas corpus herein.

SECOND. That the Court erred in holding that it had no jurisdiction to issue a writ of habeas corpus, as prayed for in the petition herein.

THIRD. That the Court erred in not holding that the allegation contained in the petition herein for a writ of habeas corpus, were sufficient in law, to justify the granting and issuing of a writ of habeas corpus, as prayed for in said petition.

FOURTH. That the Court erred in not holding that the Commissioner of Immigration and Secretary of Labor, acted beyond their [34] statutory authority and without jurisdiction in denying the application of the detained to re-enter the United States he having established to their satisfaction, his

status as a Chinese merchant for one year, prior to his departure for China.

FIFTH. *The* the Court erred in holding that it was within the statutory authority and within the jurisdiction of the said Commissioner, and the said Secretary of Labor, to examine into the legality of the residence of the said detained within the United States, prior to the one year immediately preceding his departure upon said temporary visit to China.

SIXTH. That the Court erred in holding that the detained could not be permitted to urge his mercantile status acquired during his release on bond, in defense of his present right of residence in the United States.

WHEREFORE, the appellant prays that the judgment and order of the United States District Court, in and for the Northern District of the State of California, made and entered herein in the office of the Clerk of the said Court on the 7th day of June, 1917, discharging the order to show cause and dismissing the petition for a writ of habeas corpus be reversed, and that this cause be remitted to the said lower court with instructions to discharge the said Chin Fong from custody, or grant him a new trial before the lower court, by directing the issuance of a writ of habeas corpus, as prayed for in said petition.

Dated San Francisco, California, June 7th, 1917.

GEO. A. MCGOWAN,

Attorney for Appellant.

Due service and receipt of a copy of the within notice and petition for appeal and assignment of er-

rors is hereby admitted this 8th day of June, 1917.

JNO. W. PRESTON,

U. S. Attorney, Northern District of California.

Attorney for Respondent.

[Endorsed]: Filed Jun. 8, 1917. W. B. Maling,
Clerk. By Lyle S. Morris, Deputy Clerk. [35]

*In the District Court of the United States, in and
for the Northern District of the State of Cali-
fornia, Southern Division, First Division.*

(No. 16,205.)

In the Matter of CHIN FONG (13,137/1/2 Ex. S. S.
"PERSIA," December 23, 1913), on Habeas
Corpus.

**Order Allowing Petition for Appeal (and Releasing
on Bond.)**

On this 7th day of June, 1917, come Chin Fong, the
detained herein, by his Attorney, George A. Mc-
Gowan, Esquire, and having previously filed herein,
did present to this Court, his petition, praying for
the allowance of an appeal to the United States Cir-
cuit Court of Appeals for the Ninth Circuit, intended
to be urged and prosecuted by him, and praying also
that a transcript of the record and proceedings and
papers upon which the judgment herein was ren-
dered, duly authenticated, may be sent to the United
States Circuit Court of Appeals for the Ninth Cir-
cuit, and that such other and further proceedings
may be had in the premises as may seem proper.

ON CONSIDERATION WHEREOF, the Court hereby allows the appeal herein prayed for, and orders execution and remand stayed pending the hearing of the said case in the United States Circuit Court of Appeals for the Ninth Circuit, that the appellant may be released upon bond, in the sum of One Thousand Five Hundred Dollars (\$1,500) and that he remain within the United States, and render himself in execution of whatever judgment is finally entered herein at the termination of said appeal, and that the United States Marshal for this District is authorized to take [36] the detained into his custody for the purpose of effecting his release upon said bond.

Dated San Francisco, California, June 8th, 1917.

M. T. DOOLING,
U. S. District Judge.

Due service and receipt of a copy of the within Order Allowing Appeal and Releasing on Bond is hereby admitted this 8th day of June, 1917.

JNO. W. PRESTON,
U. S. Attorney, Northern District of California,
Attorney for Respondent.

[Endorsed]: Filed, Jun. 8, 1917. W. B. Maling,
Clerk. By Lyle S. Morris, Deputy Clerk. [37]

Certificate of Clerk U. S. District Court to Transcript on Appeal.

I, Walter B. Maling, Clerk of the District Court of the United States, for the Northern District of Cali-

fornia, do hereby certify that the foregoing 55 pages, numbered from 1 to 55, inclusive, contain a full, true and correct transcript of certain records and proceedings, in the matter of Chin Fong. On Habeas Corpus, No. 16,205, as the same now remain on file and of record in the office of the Clerk of said District Court, said transcript having been prepared pursuant to and in accordance with the praecipe for record on appeal (copy of which is embodied in this transcript) and the instructions of Geo. A. McGowan, Esq., attorney for the petitioner and appellant herein.

I further certify that the cost for preparing and certifying the foregoing transcript on appeal is the sum of Twenty-one Dollars and Eighty-five cents (\$21.85) and that the same has been paid to me by the attorney for the appellant herein.

Annexed hereto is the original citation on appeal, issued herein (page 57).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 19th day of June, A. D. 1918.

[Seal]

WALTER B. MALING,

Clerk.

By C. M. Taylor,

Deputy Clerk.

CMT.

[56]

(Citation on Appeal—Original.)

UNITED STATES OF AMERICA,—ss.

The President of the United States, to Edward White, as Commissioner of Immigration, for the Port of San Francisco, and to John W. Preston, U. S. Attorney for Northern District of California, His Attorney, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Northern District of California, Southern Division, Division No. 1, wherein Chin Fong is appellant, and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS.—the Honorable M. T. DOOLING, United States District Judge for the Northern District of California, Southern Division, Div. No. 1, this 8th day of June, A. D. 1917.

M. T. DOOLING,

United States District Judge.

Due service of the within Citation on Appeal

and receipt of a copy thereof is hereby admitted this 8th day of June, 1917.

JNO. W. PRESTON,
U. S. Attorney, Northern District of California,
Attorney for Respondent.

This is to certify that a copy of the within Citation on Appeal was this day lodged with the undersigned as the clerk of the above-entitled court.

Dated June 8th, 1917.

[Seal] W. B. MALING,
Clerk of the United States District Court in and for
the Northern District of California, Southern
Division, Division No. 1.

By T. L. Baldwin,
Deputy Clerk U. S. District Court, Northern District
of California.

[Endorsed]: No. 16,205. United States District Court for the Northern District of California, Southern Division, Div. No. 1. In the Matter of Ching Fong on Habeas Corpus, Appellant, vs. Edward White, as Commissioner of Immigration for the Port of San Francisco, Appellee. Citation on Appeal. Filed Jun. 8, 1917. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [57]

[Endorsed]: No. 3180. United States Circuit Court of Appeals for the Ninth Circuit. Chin Fong, Appellant, vs. Edward White, as Commissioner of Immigration for the Port of San Francisco, Appellee. Transcript of Record. Upon Appeal from the

Southern Division of the United States District Court for the Northern District of California, First Division.

Filed July 12, 1918.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

No. —.

CHIN FONG,

Appellant,

vs.

EDWARD WHITE, Commissioner of Immigration,
of the Port of San Francisco,

Appellee.

**Stipulation Omitting Certain Orders from Printed
Transcript of Record.**

It is hereby stipulated and agreed by and between counsel for the respective parties hereto that in the printing of the transcript of record herein as the same is now on file with the clerk of this court, the following orders may be omitted from the printed copy of said record:

Citation on Appeal—Copy (Tr. page 38).

Bond for appearance on appeal (Tr. pages 39, 40).

Stipulations and orders extending time to docket case covering the following periods of time:

July 7, 1917, to August 6, 1917 (Tr. page 41).

August 4, 1917, to August 29, 1917 (Tr. page 42).

August 28, 1917, to September 1, 1917 to be printed (Tr. pages 43, 44).

September 1, 1917, to October 1, 1917 (Tr. page 45).

September 29, 1917, to October 29, 1917 (Tr. page 46).

October 29, 1917, to November 28, 1917 (Tr. page 47).

November 27, 1917, to December 27, 1917 (Tr. page 48).

December 27, 1917, to January 16, 1918 (Tr. page 49).

January 16, 1918, to February 15, 1918 (Tr. page 50).

February 14, 1918, to March 16, 1918 (Tr. page 51).

March 16, 1918, to April 15, 1918 (Tr. page 52).

April 15, 1918, to May 15, 1918 (Tr. page 53).

May 15, 1918, to June 14, 1918 (Tr. page 54).

June 14, 1918, to July 14, 1918 (Tr. page 55).

And Exhibit "A" filed with petition for writ may be omitted.

It is further stipulated and agreed that this stipulation be printed in the transcript of record.

Dated July 20, 1918.

GEO. A. MCGOWAN,

Attorney for Petitioner and Appellant.

JNO. W. PRESTON,

United States Attorney for the Northern District of California,

Attorney for Respondent.

[Endorsed]: No. 3180. In the United States Circuit Court of Appeals for the Ninth Circuit. Chin Fong, Appellant, vs. Edward White, Commissioner of Immigration of the Port of San Francisco, Appellee. Stipulation Omitting Certain Orders from Printed Transcript of Record. Filed Jul. 22, 1918. F. D. Monekton, Clerk.